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July 15, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

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JUL 15 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: IB Docket No. 96-111; CC Docket No. 93-23, RM-7931

Dear Mr. Caton:

Kokusai Denshin Denwa Co., Ltd. ("KDD") is pleased to comment on the Federal Communications Commission's Notice of Proposed Rulemaking ("NPRM") released on May 14, 1996 in the above-referenced proceeding. KDD is the Japanese signatory to both the International Telecommunications Satellite organization ("Intelsat") and the International Maritime Satellite Organization ("Inmarsat"), and is a shareholder in ICO Global Communications, Inmarsat's new mobile satellite subsidiary. As such, KDD has a significant investment and operational interest in the global fixed- and mobile service satellite industry. In addition, KDD is an important user of space segment capacity provided by U.S.-licensed satellites, such as Panamsat and TDRS.

The NPRM is a vital step forward by the Commission to clarify the rules governing access by satellite capacity users in the United States to satellite systems licensed by other countries or operated by International organizations. KDD applauds and supports the Commission's stated objectives in paragraph 1 of the NPRM to "facilitate much greater access to non-U.S. satellites" and "to open...satellite communications markets, thereby enhancing competition in the global market for satellite services." We believe that these policy goals are essential to accommodate the rapidly evolving innovations in satellite technology, including in mobile satellite services ("MSS"), and to facilitate penetration and utilization of communications satellite services globally.

Because the United States represents the leading information and telecommunications market in the world, KDD notes the importance for the proposed rules to provide fair competitive opportunities to satellite service providers of all countries who seek to provide service into or out of the United States.

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List A B C D E

1. Implementation of ECO-Sat Standard

KDD suggests that implementation of an “ECO-Sat” test for evaluating eligibility for use of non-U.S. satellite systems requires careful consideration and monitoring by the Commission to ensure that it is not used to create barriers to the development of satellite communications networks in parts of the world where they are most needed, particularly in thin volume markets in developing countries and/or areas.

“Route Market” Test For example, the Commission proposes the evaluation of “route markets” as part of the two-pronged ECO-Sat analysis (NPRM, ¶¶ 27-29). It will be important in applying this analysis to recognize that a specific route market, particularly to or from certain developing countries, might have been developed through the initiative and investment of a non-U.S. satellite system. The efforts of this non-U.S. system could constitute the only effective satellite service into these markets. The route-market test should not be applied in such cases in such a way that penalizes and, therefore, discourages the non-U.S. system for having taken the initiative of developing telecommunications networks in areas where they may be most needed.

Modified ECO-Sat for MSS. KDD is concerned that the concept of “critical mass,” as proposed to be used in the modified ECO-Sat formula for MSS systems (NPRM, ¶ 47), will be an elusive one on which it will be difficult to secure consensus within the satellite industry, both in terms of which foreign markets would be considered relevant to this evaluation and how many of such markets would equal a “critical” number or proportion. We note that application of this modified ECO-Sat approach could create operational quandaries within the low-earth orbiting MSS industry. For example, if “Country A” is determined to be essential to the “critical mass” and is found not to be open to U.S. satellite operators, this would inevitably require non-U.S. MSS systems to consider whether they will value more highly the U.S. market or that of Country A. The tensions to which enforcement of this standard would give rise could have a negative effect on the growth of competing global MSS systems to provide services to some of the less developed markets which would benefit most from such services.

Another concern of KDD is that, if the “critical mass” concept for MSS is applied too strictly, it could inadvertently result in access to the U.S. market for some systems becoming a *de facto* bottleneck for non-U.S. MSS operators, preventing them from being able to provide service to a significant portion of the globe. This result would appear contrary to the pro-competitive objectives set forth in the introduction to the NPRM.

2. Definition of IGO “Home Markets”

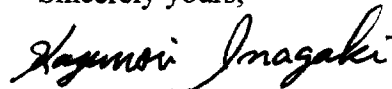
KDD concurs with the Commission’s conclusion that it would not be realistic to base access to the U.S. domestic market for intergovernmental organizations (“IGOs”) on the openness of *all* governments participating in the ownership and operation of the IGO (NPRM, ¶ 66). It would be wrong to penalize these organizations as a result of the policies or actions of a few of its members.

Nor does KDD believe that this decision should even be governed by the policies of two-thirds of the IGO parties representing two-thirds of the organizations's total investment shares (NPRM, ¶ 67). The two-thirds majority principle found in the charters of IGOs like Intelsat and Inmarsat were adopted over 20 years ago, when IGOs acted primarily on the basis of consensus. Today, the IGOs face a circumstance in which the forces of privatization, competition and liberalization of telecommunications regulation have rendered each signatory's economic and political situation unique to it. It should also be noted that most commercial and operational decisions of the IGOs are exercised routinely, not by the Assemblies of Parties acting in plenary session, but by the Board of Governors and Council of Intelsat and Inmarsat respectively.

The third option for making a "home market" determination for IGOs is probably the most realistic and sensible, notwithstanding that it provides the least objective guidelines for interested parties ("NPRM, ¶ 68). Under this approach, the Commission would retain authority to make decisions regarding domestic U.S. use of IGO space segment capacity on a more flexible basis. This option avoids the arbitrariness of the first two discussed above, and would allow the decision to be made instead on the actual merits of whether the IGO's participation in the domestic U.S. market will diminish effective competition there.

Please let me know if you have any questions regarding these comments, or if KDD can be of any further assistance.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Kazunori Inagaki". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Kazunori Inagaki

Director, KDD Washington Liaison Office